

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA, <p style="text-align: center;">Plaintiff</p>)	
)	Case No. 16-CR-20810-04
v.)	Honorable George Caram Steeh
)	
TAKATA CORPORATION, <p style="text-align: center;">Defendant.</p>)	

TWENTY-SECOND STATUS REPORT OF THE SPECIAL MASTER

1. Eric D. Green, the court-appointed Special Master for the custody, administration, and distribution of the Takata Airbag Restitution Funds, hereby respectfully submits his Twenty-Second Status Report pursuant to paragraph 4 of this Court’s Appointment Order (the “Status Report”).¹ The Status Report provides an overview of the Special Master’s work from January 19, 2021 through March 19, 2021 (the “Reporting Period”) and anticipated future efforts. The Special Master is presently on schedule regarding the processing of Claims and distribution of the restitution funds available to eligible Claimants who have filed Claims with the Individual Restitution Fund (the “IRF”).

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the *Twenty-First Status Report of the Special Master*, dated January 18, 2021 [Dkt. No. 137].

I. ACTIVITIES IN THE REPORTING PERIOD.

A. OUTREACH TO POTENTIAL CLAIMANTS UPDATE.

1. In the *Nineteenth Status Report of the Special Master*, dated September 15, 2020 [Dkt. No. 131], the Special Master informed the Court there may be as many as sixty (60) personal injury cases involving the rupture or aggressive deployment of a Takata phase-stabilized ammonium nitrate (“PSAN”) airbag inflator that had been settled with an original equipment manufacturer prior to the establishment of the IRF, but for which claimants have yet to file a corresponding claim with the IRF. In furtherance of his mandate, the Special Master offered to provide additional individualized notice to these persons as IRF records indicate that up to one half of these cases potentially involved individuals who were not represented by counsel, and a portion of these individuals appear to have executed releases that did not release Takata.

2. During the Reporting Period, the Special Master’s office has continued conducting outreach via mail, informing potential claimants that they may be eligible for compensation from the IRF and directing them to contact the Special Master’s office for additional information.

B. APPROVAL OF SEVENTH IRF DISTRIBUTION REQUEST.

3. On January 18, 2021, the Special Master filed the *Special Master’s Request for Approval of Seventh Distribution of Individual Restitution Fund* (the

“Seventh IRF Distribution Request”) [Dkt. No. 136], seeking Court-approval for: (i) a seventh distribution from the IRF to compensate two (2) eligible Claims, and (ii) the denial of seven (7) ineligible Claims. On February 26, 2021, the Court entered an order granting the Special Master’s Request. *See Order Granting Special Master’s Request For Approval Of Seventh Distribution Of Individual Restitution Fund* [Dkt. No. 139]. Accordingly, the Special Master has been processing and making these payments. As of the date of this filing, the Special Master’s office has received signed releases for two (2) of the compensable Claims approved in respect of the Seventh IRF Distribution Request.

C. CLAIMS PAYMENT PROCESS.

4. Contemporaneous with this filing, the Special Master also filed the *Special Master’s Request for Approval of Eighth Distribution of Individual Restitution Fund* (the “Eighth IRF Distribution Request”) [Dkt. No. 141], seeking Court-approval for: (i) an eighth distribution from the IRF to compensate ten (10) eligible Claims, and (ii) the denial of six (6) ineligible Claims.

5. As described in the Eighth IRF Distribution Request, the Special Master evaluated each Claim referenced therein, determined whether it is eligible for compensation and, if eligible, assigned a point value. In total, after all internal reviews and appeals, 15,285 points were awarded to the ten (10) eligible Claims,

amounting to a proposed distribution of \$1,085,387.85. The Special Master also determined six (6) Claims to be ineligible for compensation.

6. Consistent with the procedures set forth in the *Minutes of July 25, 2019 Conference with Special Master* (the “July 2019 Minutes Order”) [Dkt. No. 110], the Special Master notified the affected Claimants: (i) of their point award and the monetary value of the award (if any); (ii) of the filing of the Eighth IRF Distribution Request; and (iii) that such Claimants may object to the Eighth IRF Distribution Request by submitting a written response to the Special Master on or before April 12, 2021 (the “Objection Deadline”).

7. As the Court is aware, there are two conditions that must be met for Claimants with compensable Claims to receive payment from the IRF. First, all Claimants must execute and submit to the Special Master the Court-approved release agreement (a “Release”). Additionally, if any Claimant was represented by counsel, such counsel must execute and submit to the Special Master a fee rider (a “Fee Rider”) acknowledging and agreeing to abide by the restriction on attorney’s fees set forth in the IRF Methodology Order. [Dkt. No. 78, Page ID 2219]. The Special

Master will issue payment to eligible Claimants on a rolling basis following receipt of the necessary documentation.

II. GOING FORWARD EFFORTS.

A. THE REVISED IRF METHODOLOGY AND POINTS SCHEDULE MODIFICATION

8. As the Court is aware, the Special Master determines the values of injuries based on a court-approved injury matrix (or “points schedule”). The IRF and the TATCTF have used the same points schedule (the “Original Points Schedule”) since inception of both Funds. Following a recent proposal submitted by certain TATCTF stakeholders, the TATCTF incorporated two changes to the Original Points Schedule (as modified, the “Modified Points Schedule”).

9. The first change resulted in an increase to the number of points awarded for Torso Lacerative Injuries. The TATCTF stakeholders agreed that the awards for Torso Lacerative Injuries appeared undervalued under the Original Points Schedule, where: (i) mild Torso Lacerative Injuries were awarded 20 points; (ii) moderate Torso Lacerative Injuries were awarded 100 points; and (iii) severe Torso Lacerative Injuries were awarded 275 points. Under the Modified Points Schedule, a mild Torso Lacerative Injury is awarded 100 points; a moderate Torso Lacerative Injury is awarded 215 points; and a severe Torso Lacerative Injury is awarded 600 points.

10. The second change to the Original Points Schedule expanded the type of injuries that qualify under the Facial Nerve Injury group. The Original Points

Schedule excluded non-facial nerve injuries from this group. Under the Modified Points Schedule, the Facial Nerve Injury group is expanded to includes non-facial nerve injuries, such as limb paralysis. The TATCTF stakeholders agreed that the awards received by Claimant with non-facial nerve injuries appeared undervalued under the Original Points Schedule.

11. On February 4, 2021, the Special Master filed a motion seeking the Court's approval to apply the same Modified Points Schedule as the TATCTF to the IRF (the "Points Modification Motion"). *See The Special Master's Motion To Modify The Points Schedule Under The Revised Individual Restitution Fund Methodology* [Dkt. No. 138]. On February 26, 2021, the Court entered an order approving the Points Modification Motion [Dkt No. 140]. Following the approval of the Points Modification Motion and the adoption of the amended points schedule by the TATCTF, the Special Master and his team went back and reviewed each and every eligible claim that involved a torso lacerative injury or a non-facial nerve injury to retroactively update each eligible claimant's point award under the revised point schedule. The Special Master is planning to make supplementary awards and additional payments in the next 60 days to every claimant whose point awards were increased as a result of the point modification.

B. CLAIM EVALUATION AND PROCESSING EFFORTS.

12. During the prior Reporting Periods, the Special Master purchased and executed upon, through its Claims Agent, Epiq, a comprehensive media plan to conduct outreach to potential claimants via various media platforms. The media plan went into effect in August 2020. The Special Master's team has observed an increase in claim filing activity following implementation of the media plan. Relatedly, the Special Master continues to monitor closely the pandemic's effect on claim filing activity and rupture incidents, both of which have materially decreased during the pandemic. The Special Master expects claim filing activity may increase gradually as COVID-19 restrictions are lifted throughout the country.

13. As stated above, the Special Master and his team will continue to receive claims for compensation from the IRF and TATCTF (in his capacity as Trustee of that Trust), and will continue the process of reviewing, evaluating, and distributing funds on account of claims. The Special Master and his team will also continue to evaluate the claims data and recall completion rate data in connection with any future point-value evaluations. The Special Master and his claims evaluation team remain committed to completing its initial evaluation of Claims within thirty (30) days of the Special Master's receipt thereof.

C. STATUS OF UPCOMING LIABILITY RE-ESTIMATION.

14. As described in the Special Master’s *Request for Approval of First Distribution of Individual Restitution Fund* (the “First IRF Distribution Request”) [Dkt. No. 111], the Special Master consulted with his economist, NERA Economic Consulting, Inc. (“NERA”) and his other professionals regarding the evaluation of updated economic models and Current Claims data provided by NERA. At that time, the Special Master and his professionals analyzed the updated economic model against NERA’s initial liability estimation in order to determine the Special Master’s proposed value of an IRF point, and relatedly, the appropriate portion of the IRF that should be reserved for Future Claims.

15. The Special Master, in consultation with his advisors, has determined that it is now appropriate to conduct a comprehensive re-estimation of Claims (the “2021 Re-Estimation”) that will be used to, among other things, establish an up-to-date point value for distributions to eligible Claimants. The 2021 Re-Estimation will reconsider and update, as applicable, all relevant inputs that supported the previous re-estimation model.

16. NERA, under the Special Master’s direction, recently began the process of collecting data for the 2021 Re-Estimation. Several critical steps have already been completed. The Special Master is coordinating with NERA, the original equipment manufacturers, and members of the plaintiffs’ bar to obtain up-to-date

claims and vehicle-related data. Additionally, the Special Master has contracted with a leading national provider of business and statistical information for the automotive industry to obtain statistical data and information on domestic vehicle use that are relevant to the 2021 Re-Estimation modeling.

17. The Special Master anticipates that the 2021 Re-Estimation will be completed within 60 days. Any resulting change in the point value will be presented to the Court for approval shortly thereafter so that current and future claimants can be compensated accordingly and retroactive supplementary awards can be made to claimants already compensated under earlier, lower point values.

CONCLUSION

18. The Special Master will continue to perform his responsibilities and duties consistent with the Appointment Order and all other directives of this Court.

Dated: March 22, 2021

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. Green', written over a horizontal line.

Eric D. Green, Special Master